

CHAPTER NO. 344

SENATE BILL NO. 1973

By Ford, Dixon

Substituted for: House Bill No. 2006

By Bowers

AN ACT To amend Tennessee Code Annotated, Title 67, Chapter 4, Part 19, relative to imposition of an additional rental car tax by a county that will use the proceeds thereof for the payment of bonded indebtedness or other costs incurred by the county or any city located therein for modification or construction of an arena facility for a National Basketball Association member professional basketball team.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 67, Chapter 4, Part 19, is amended by adding the following new section:

67-4-1907.

(a) In addition to the state tax provided in Section 67-4-1901, any county that meets the requirements of subsection (d) of this section is authorized to levy a surcharge or tax of two percent (2%) of the gross proceeds derived from the lease or rental of any passenger motor vehicle, truck or trailer for periods of thirty-one (31) days or less; provided, that such surcharge or tax shall not apply to an automobile rented by an insurance company as a replacement vehicle for a policy holder or by a business that rents a truck or trailer for the purpose of transporting goods, or by any individual or business that rents a vehicle as a replacement while the renter's vehicle is being repaired, replaced or serviced; provided further, that the individual presents to the renter upon return of the rented vehicle a copy of the repair or service invoice or signs a statement under penalty of perjury that the lease or rental of the vehicle is used as a replacement for a vehicle that is being repaired, replaced, or serviced. The surcharge or tax shall not apply to any vehicle rental transaction in which an entity whose principal business activity is the sale and service of new and used motor vehicles is a party. This surcharge or tax shall apply to the gross proceeds from the rental agreement, excluding any sales taxes imposed by Chapter 6 of this title. The surcharge or tax shall be subject to the exemptions provided in Section 67-4-1906. The surcharge or tax shall not be subject to the credit provided in Section 67-4-1903 and shall be implemented consistent with the existing tax policies and procedures of the Department of Revenue.

(b) This tax or surcharge shall be in addition to any tax, fee or license imposed directly or indirectly.

(c)(1) The tax shall be collected from the customer at the time of the presentation of the invoice for the rental whether prior to delivery or after return of the vehicle.

(2) Monthly returns and remittances thereon shall be filed by each business with the county clerk not later than the twentieth (20th) day of each month for the preceding month, upon forms prescribed, prepared and furnished by the county.

(3) The county clerk in administering and enforcing the surcharge or tax shall have as additional powers those powers and duties with respect to collecting taxes as provided in Title 67, or otherwise provided by law.

(d) All revenue received by the county from this surcharge or tax shall be deposited in a county fund entitled the "NBA Arena Fund" which shall be used for the purpose of paying the costs incurred in modification or construction of an arena facility for a National Basketball Association member professional basketball team. In the event that a city within the county participates jointly with the county in the contribution of capital expenditures for construction of such an arena facility, the revenue from this surcharge or tax shall be applied and allocated as follows:

(1) The revenue from such tax shall first be applied to payment of bonded indebtedness, principal and interest including expenses of the bond sale or sales, incurred by both the county and the city, or by either of them, for construction of such facilities and such revenue shall be allocated between the county and the city in such amounts necessary to meet the fiscal debt service requirements each year of both if there are sufficient funds. Such allocation shall be based upon actual bonded indebtedness incurred for such purpose, without deduction or offset due to any grant, credit or benefit that either government entity may be entitled by law to receive in connection with, or as a result of, such capital expenditures, such as any grant, credit or benefit accruing under provisions of federal housing and urban renewal statutes.

(2) Beginning on June 30 of the first full year of collection of this tax and on the same date of each year thereafter, the county shall calculate and pay over to the city that amount due such city from the proceeds of this surcharge or tax during the fiscal year then ending. Revenue derived from the levy of this tax during the first year in which said tax is levied shall be carried over for use in the next ensuing fiscal year in the payment of the allocable amounts to the county and the city.

(3) If at the close of any fiscal year, the revenue from such tax shall not be sufficient to meet the total debt service of both the county and the city for bonded indebtedness incurred for construction of such arena facility, the available revenue from this tax shall be allocated between the county and the city in the same direct proportion as such bonded indebtedness of each bears to the total of such bonded indebtedness of both, calculated upon the basis of the total principal amount of all such bonds that have been issued by the county and the city at any time prior to the close of that fiscal year; provided, that the balance, if any, of such debt service of either the county or the city not paid by revenue of this tax at the end of each fiscal year shall be accumulated by each in a separate deficit account that shall bear simple interest at the same rate as the bonds issued by each such governmental entity for construction of such facilities.

(4) If the revenue from such tax in any fiscal year exceeds the total of such debt service requirements for that year, such surplus revenue thus accruing may be retained by the county as a sinking fund for such future debt service requirements or such surplus may be applied to the reduction of the deficit accounts of the county and the city in the same proportion as provided in subdivision (3).

(5) In the event the total bonded indebtedness incurred for construction of such arena facility by either the county or the municipality shall be paid in full as to bond principal and interest, including expenses of the bond sale or sales, and some portion of such bonded indebtedness of one (1) governmental entity remains unpaid, then that governmental entity whose bonded indebtedness has been satisfied in full shall cease, for the time being, to share in the revenue of this tax, and the total revenue from this tax shall be applied toward payment of such outstanding bonded indebtedness of the other governmental entity. For purposes of this subdivision (5) only, the bonded indebtedness of either the county or the city shall be considered paid in full whenever the bonded indebtedness obligation to the holders of such obligation shall have been satisfied in full, even though such obligations may have been paid in part from sources other than the revenue from this tax.

(d) Upon the total of such bonded indebtedness of both the county and the city being paid in full, including principal and interest, and including expenses of the bond sale or sales, then the revenue from this surcharge or tax, together with any surplus revenue accumulated in accordance with subsection (c)(4), shall next be applied to the county and the city's accumulated deficit accounts as provided in subsection (c)(3). For purposes of this subsection (d) only, the revenue and surplus, if any, shall be allocated between the county and the city in the same direct proportion that such deficit account of each bears to the total of such deficit accounts of both governmental entities. Upon one (1) of such governmental entities being reimbursed in full, including principal and interest on such deficit account, with a balance of the deficit account of the other governmental entity remaining unreimbursed, then the total revenue from this surcharge or tax shall, for the time being, be applied to reimbursement of the deficit account of that governmental entity whose account remains unpaid.

(e) When both the county and the municipality shall have been reimbursed in full for principal and interest for such deficit accounts, in accordance with subsection (d) hereof, then the revenue from this tax shall next be applied to reimburse both the county and the city for capital expenditures for construction of such facilities made from sources other than the proceeds of bonded indebtedness, including, but not limited to, capital expenditures made from general revenues, sinking funds for capital improvements, and contributions in-kind of real or personal property. For purposes of this subsection (e) only, the revenue from this tax or surcharge, together with, and including any surplus in the NBA Arena Fund, shall be allocated fifty percent (50%) to the county and fifty percent (50%) to the city. When either of such governmental entities shall be reimbursed in full for all such capital expenditures for construction of such facilities, then the total revenue from this tax or surcharge shall be applied to reimbursement of the other governmental entity for such capital expenditures. Upon both the county and the municipality being reimbursed in full for capital expenditures for construction of such facilities the county's taxing resolution shall be repealed and this surcharge or tax shall no longer be levied; provided, that any funds remaining in "NBA Arena Fund," after all

obligations imposed under the provisions of this act shall have been fulfilled, shall be paid over to any governmental board or agency responsible for operation of the arena facility, for use by it in the promotion and advertisement of the Auditorium Convention Center facilities.

SECTION 2. A county which has adopted the provisions of this act is hereby authorized to provide, by resolution, reasonable rules and regulations for the implementation of the provisions of this act.

SECTION 3. This act shall have no effect unless approved by a two-thirds (2/3) vote of the county legislative body before January 1, 2002.

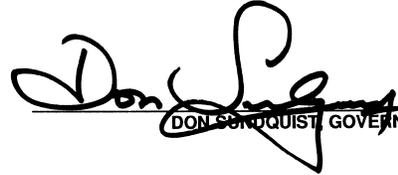
SECTION 4. For purposes of approving or rejecting the provisions of this act, it shall be effective upon becoming a law, the public welfare requiring it. For all other provisions, it shall become effective upon being approved as provided in Section 3.

PASSED: June 4, 2001


JOHN S. WILDER
SPEAKER OF THE SENATE


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES

APPROVED this 5th day of June 2001


DON SUNDQUIST, GOVERNOR